IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8952 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAROJ A NARIGARA - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR PARESH UPADHYAY for Petitioner No(s).: 1.
MR DIPEN DESAI, AGP for Respondent No(s).: 1,2.
MR ASIM J PANDYA for Respondent No(s).: 3.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 18/08/2005

ORAL JUDGMENT

Rule. Mr.Dipen Desai, learned AGP, waives service of notice of rule on behalf of respondents No.1 and 2 and Mr.Asim Pandya, learned advocate waives service of notice of rule on behalf of respondent No.3. With the consent of

the parties, matter is taken up for hearing today.

By filing this petition, the petitioner has prayed that the respondents may be directed to appoint the petitioner as Lecturer in the subject of Psychology in the Gujarat Education Service Class-II (Collegiate Branch) in Government Arts, Science and Commerce college.

In response to the advertisement issued by the GPSC, which is at page 10, the petitioner had applied for appointment to the post of Lecturer in Psychology subject. The petitioner belongs to S & E B C category. On the basis of her performance in interview, she was selected and she was kept at serial No.6 in the wait list. The select list is produced by the petitioner at page 14, Annexure-B. It is submitted by Mr.Upadhyay, learned advocate for the petitioner that result of one Smt.Nilamben Natvarlal Nakum, who also belong to S. & E.B.C. Category, was kept in abeyance, however, subsequently her result was declared and she was selected and placed at serial No.8-A in the select list. He further submitted that the said candidate was given posting order at Surendranagar but she had not joined at the said place and now, the petitioner is the only

candidate in the select list who belongs to S. & E.B.C. category and therefore, she is required to be appointed in place of Smt.Nilamben Natvarlal Nakum.

In this behalf, he has relied upon the decision of learned Single Judge of this Court dated 30th October, 2004 delivered in Special Civil Application No.11958 of 2004. In the aforesaid case, a candidate belonging to general category from the same waiting list had prayed for appointment as one of the candidates from select list had not taken over. While allowing that petition learned Single Judge of this Court has observed as under in paragraph 19 :

> “19. In view of the above discussion, the petition is allowed. Respondent No.3-Gujarat Public Service Commission is directed to forward, within 15 days from the date of receipt of the writ of this Court, the name of the candidate placed at Sr.No.1 in the waiting list for the post of lecturer in Psychology as prepared on 19.5.2000 pursuant to the advertisement No.19/98-99 and thereafter respondent No. 1-State Government, after considering the formalities regarding verification of character, antecedents and medical examination, appoint such candidate on the post of lecturer in Psychology in Gujarat Education Service Class-II (Collegiate Branch) at Government Arts, Science & Commerce Colleges within one month.”

In response to the notice of this Court, learned advocate Mr.Pandya appearing for GPSC submitted that the case of the petitioner will be governed by the decision of this Court delivered in the aforesaid petition.

It seems that there is no dispute about the fact that a candidate at Serial No.8-A Nilamben Natvarlal Nakum has not resumed her duty, therefore, the petitioner being the only candidate belonging to S. & E.B.C. category in the said waiting list, she can be accommodated in her place. Since there is nothing on record before this Court regarding placing said Nilamben Natvarlal Nakum at serial No.8-A, it is directed that in case the aforesaid candidate Nilamben Natvarlal Nakum was selected and placed at Serial No.8-A and if she has not joined her duty, the case of the petitioner should be considered for the post of Lecturer as the petitioner is the only candidate belonging to S. & E.B.C. category in the said wait list.

In view of the above discussion, the petition is allowed. Respondent No.3-Gujarat Public Service Commission is directed to forward, within 15 days from the date of receipt of the writ of this Court, the name

of the candidate placed at Sr.No.6 in the waiting list for the post of lecturer in Psychology as prepared on 19.5.2000 pursuant to the advertisement No.19/98-99 and thereafter respondent No. 1-State Government, after considering the formalities regarding verification of character, antecedents and medical examination, appoint such candidate on the post of lecturer in Psychology in Gujarat Education Service Class-II (Collegiate Branch) at Government Arts, Science & Commerce Colleges within one month.

Accordingly, this petition is allowed. Rule made absolute. No order as to costs.

(P.B.MAJMUDAR, J.)

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